

SUMMARY OF WATER QUALITY ORDER

ORDER NO.	WQ 2006-0005
DATE ADOPTED	May 15, 2006
PETITION TITLE	Humboldt Watershed Council, Environmental Protection Information Center, and Sierra Club
POPULAR NAME <i>[if applicable]</i>	
REGIONAL BOARD	North Coast Regional Water Quality Control Board
FILE NO[S]	SWRCB/OCC File A-1692

NON-PRECEDENTIAL ORDER

In late 2004 and early 2005, Pacific Lumber Company (PALCO) made several requests that the North Coast Regional Water Quality Control Board (North Coast Water Board) allow additional timber harvesting in the Freshwater Creek and Elk River drainages. The California Department of Forestry and Fire Protection (CDF) had already approved this timber harvesting. On November 29, 2004, and on March 16, 2005, the North Coast Water Board adopted motions directing its Executive Officer to enroll additional timber harvesting plans (THPs) submitted by PALCO under General Waste Discharge Requirements Order No. R1-2004-0030 (General Order). On December 19, 2004, the Humboldt Watershed Council filed a petition challenging the November Board resolution and the Executive Officer's actions based thereon. On March 22, 2005, the Humboldt Watershed Council filed another petition with the State Water Resources Control Board (State Water Board) on behalf of itself, the Sierra Club, and the Environmental Protection Information Center, contesting the validity of the March motion.

In an order adopted June 16, 2005, the State Water Board vacated the decisions enrolling the THPs under the General Order and found that no further enrollments in those watersheds could be made. PALCO sought a writ of mandate from the Superior Court in Humboldt County to overturn the Order (WQ 2005-0009.) On April 26, 2006, the court issued its ruling finding that the State Water Board had not fully justified its decision, disagreeing with the State Water Board's interpretation of the California Environmental Quality Act's applicability to the enrollments, and remanding the matter to the State Water Board for further considerations. Pending the State Water Board's consideration of the remand, the court's ruling stayed PALCO's timber activities under the subject THPs, provided the State Water Board, no later than May 15, 2006, hold a hearing to determine whether a stay should continue. The judge's ruling also notes that the matter might be trumped (i.e., rendered moot) if the North Coast Water Board were to adopt watershed-wide waste discharge requirements covering the disputed THPs.

On May 15, 2006, the State Water Board held a hearing on the issue of whether the stay should remain in effect. The State Water Board concluded that, with the adoption of the Watershed-wide Waste Discharge Requirements by the North Coast Water Board on May 8, 2006, PALCO had no legal authority to discharge waste from logging under the General Order and there was no issue pending before the State Water Board with regard to the enrollment of the PALCO THPs in the Freshwater Creek and Elk River drainages under that General Order. The order found that there was no controversy concerning the issuance of a stay and no party was advocating a stay. Likewise, there was no proof of substantial harm if a stay were not granted because PALCO would not be able to harvest.